

# SENATE BILL 395

J2

(2lr2482)

## ENROLLED BILL

— *Education, Health, and Environmental Affairs/Health and Government Operations* —

Introduced by **Senator Jennings**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Health Occupations – Public Disclosure of Professional Credentials and**  
3 **Reports on Advertising Regulations and Policies**

4 FOR the purpose of ~~requiring certain advertisements for health care services to~~  
5 ~~identify and fully spell out the license or certification of certain health care~~  
6 ~~practitioners; prohibiting a certain advertisement from being misleading;~~  
7 ~~specifying what constitutes a misleading advertisement under this Act;~~  
8 ~~requiring certain health care practitioners to disclose the practitioner's~~  
9 ~~licensure or certification by wearing a certain identification tag; providing for~~  
10 ~~the application of a certain provision of this Act; providing that health care~~  
11 ~~practitioners that fail to comply with certain provisions of this Act are subject to~~  
12 ~~certain disciplinary actions; authorizing the appropriate regulatory board to~~  
13 ~~investigate an alleged violation of certain provisions of this Act; requiring~~  
14 ~~certain regulatory boards to adopt certain regulations; prohibiting a physician~~

---

**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics* indicate opposite chamber/conference committee amendments.



1 from making certain representations to the public under certain circumstances;  
 2 *authorizing the Board to approve a certain certifying board if the certifying*  
 3 *board requires certain physicians to meet certain qualifications;* altering the  
 4 authority of a physician to advertise; ~~defining certain terms;~~ requiring certain  
 5 health occupation boards to submit certain information related to advertising by  
 6 health care practitioners to certain committees of the General Assembly on or  
 7 before a certain date; and generally relating to the public disclosure of  
 8 professional credentials by health care practitioners.

9 ~~BY adding to~~

10 ~~Article – Health Occupations~~

11 ~~Section 1-701 through 1-705 to be under the new subtitle “Subtitle 7. Public~~  
 12 ~~Disclosure of Professional Credentials”~~

13 ~~Annotated Code of Maryland~~

14 ~~(2009 Replacement Volume and 2011 Supplement)~~

15 BY repealing and reenacting, with amendments,

16 Article – Health Occupations

17 Section 14-503

18 Annotated Code of Maryland

19 (2009 Replacement Volume and 2011 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article – Health Occupations**

23 ~~**SUBTITLE 7. PUBLIC DISCLOSURE OF PROFESSIONAL CREDENTIALS.**~~

24 ~~**1-701.**~~

25 ~~**(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**~~  
 26 ~~**INDICATED:**~~

27 ~~**(B) “ADVERTISEMENT” MEANS ANY PRINTED, ELECTRONIC, OR ORAL**~~  
 28 ~~**COMMUNICATION OR STATEMENT THAT INCLUDES THE NAME OF A HEALTH**~~  
 29 ~~**CARE PRACTITIONER IN RELATION TO:**~~

30 ~~**(1) THE HEALTH CARE PRACTITIONER’S PRACTICE OR**~~  
 31 ~~**PROFESSION; OR**~~

32 ~~**(2) THE HEALTH CARE FACILITY AT WHICH THE HEALTH CARE**~~  
 33 ~~**PRACTITIONER IS EMPLOYED, VOLUNTEERS, OR OTHERWISE PROVIDES HEALTH**~~  
 34 ~~**CARE SERVICES.**~~

1 ~~(C) "HEALTH CARE ENTITY" MEANS A BUSINESS ENTITY THAT~~  
2 ~~PROVIDES HEALTH CARE SERVICES FOR THE:~~

3 ~~(1) TESTING, DIAGNOSIS, OR TREATMENT OF HUMAN DISEASE OR~~  
4 ~~DYSFUNCTION; OR~~

5 ~~(2) DISPENSING OF DRUGS, MEDICAL DEVICES, MEDICAL~~  
6 ~~APPLIANCES, OR MEDICAL GOODS FOR THE TREATMENT OF HUMAN DISEASE OR~~  
7 ~~DYSFUNCTION.~~

8 ~~(E) "HEALTH CARE PRACTITIONER" MEANS A PERSON WHO IS~~  
9 ~~LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THIS ARTICLE TO~~  
10 ~~PROVIDE HEALTH CARE SERVICES IN THE ORDINARY COURSE OF BUSINESS,~~  
11 ~~PRACTICE, OR THE PROFESSION.~~

12 ~~(F) "HEALTH CARE SERVICE" MEANS MEDICAL PROCEDURES, TESTS,~~  
13 ~~AND SERVICES PROVIDED TO A PATIENT BY OR THROUGH A HEALTH CARE~~  
14 ~~ENTITY.~~

15 ~~1-702.~~

16 ~~(A) AN ADVERTISEMENT FOR HEALTH CARE SERVICES THAT NAMES A~~  
17 ~~HEALTH CARE PRACTITIONER:~~

18 ~~(1) SHALL IDENTIFY AND FULLY SPELL OUT THE LICENSE OR~~  
19 ~~CERTIFICATION HELD BY THE HEALTH CARE PRACTITIONER; AND~~

20 ~~(2) MAY NOT BE MISLEADING.~~

21 ~~(B) AN ADVERTISEMENT IS MISLEADING FOR THE PURPOSES OF~~  
22 ~~SUBSECTION (A) OF THIS SECTION IF THE HEALTH CARE PRACTITIONER~~  
23 ~~KNOWINGLY AND WILLFULLY INCLUDES IN THE ADVERTISEMENT A~~  
24 ~~COMMUNICATION OR REPRESENTATION THAT:~~

25 ~~(1) MISSTATES OR FALSELY DESCRIBES THE HEALTH CARE~~  
26 ~~PRACTITIONER'S PROFESSION, SKILLS, TRAINING, EXPERTISE, EDUCATION,~~  
27 ~~LICENSURE, OR CERTIFICATION; OR~~

28 ~~(2) HOLDS THE HEALTH CARE PRACTITIONER OUT AS HAVING~~  
29 ~~SKILLS, TRAINING, EXPERTISE, EDUCATION, LICENSURE, OR CERTIFICATION~~  
30 ~~THAT THE HEALTH CARE PRACTITIONER DOES NOT HAVE.~~

31 ~~1-703.~~

1       ~~(A) THIS SECTION DOES NOT APPLY TO A HEALTH CARE PRACTITIONER~~  
2 ~~WHO WORKS IN A NONPATIENT CARE SETTING OR WHO DOES NOT DIRECTLY~~  
3 ~~INTERACT WITH PATIENTS.~~

4       ~~(B) A HEALTH CARE PRACTITIONER WHO PROVIDES HEALTH CARE~~  
5 ~~SERVICES SHALL DISCLOSE THE HEALTH CARE PRACTITIONER'S LICENSURE OR~~  
6 ~~CERTIFICATION BY WEARING AN IDENTIFICATION TAG DURING A PATIENT~~  
7 ~~ENCOUNTER.~~

8       ~~(C) THE IDENTIFICATION TAG REQUIRED TO BE WORN UNDER~~  
9 ~~SUBSECTION (B) OF THIS SECTION SHALL INCLUDE, IN A FONT SIZE THAT CAN~~  
10 ~~BE EASILY READ BY A PATIENT, THE FOLLOWING:~~

11           ~~(1) THE FIRST AND LAST NAME OF THE HEALTH CARE~~  
12 ~~PRACTITIONER; AND~~

13           ~~(2) THE FULL SPELLING OF THE TYPE OF LICENSE OR~~  
14 ~~CERTIFICATION HELD BY THE HEALTH CARE PRACTITIONER.~~

15 ~~1-704.~~

16       ~~EACH REGULATORY BOARD UNDER THIS ARTICLE SHALL ADOPT~~  
17 ~~REGULATIONS TO IMPLEMENT THIS SUBTITLE.~~

18 ~~1-705.~~

19       ~~(A) A HEALTH CARE PRACTITIONER WHO FAILS TO COMPLY WITH THE~~  
20 ~~PROVISIONS OF THIS SUBTITLE SHALL BE SUBJECT TO DISCIPLINARY ACTION BY~~  
21 ~~THE APPROPRIATE REGULATORY BOARD.~~

22       ~~(B) THE APPROPRIATE REGULATORY BOARD MAY INVESTIGATE AN~~  
23 ~~ALLEGED VIOLATION OF THIS SUBTITLE IN ACCORDANCE WITH THE~~  
24 ~~INVESTIGATIVE AUTHORITY GRANTED UNDER THIS ARTICLE.~~

25 14-503.

26       (A) A PHYSICIAN MAY NOT REPRESENT TO THE PUBLIC, ~~THROUGH AN~~  
27 ~~ADVERTISEMENT~~, THAT THE PHYSICIAN IS CERTIFIED BY A PUBLIC OR PRIVATE  
28 BOARD, INCLUDING A MULTIDISCIPLINARY BOARD, OR THAT THE PHYSICIAN IS  
29 BOARD CERTIFIED UNLESS:

30           (1) ~~THE ADVERTISEMENT INCLUDES~~ PHYSICIAN DISCLOSES THE  
31 FULL NAME OF THE BOARD FROM WHICH THE PHYSICIAN IS CERTIFIED AND THE

1 NAME OF THE SPECIALTY OR SUBSPECIALTY IN WHICH THE PHYSICIAN IS  
2 CERTIFIED; AND

3 (2) THE CERTIFYING BOARD MEETS ONE OF THE FOLLOWING  
4 REQUIREMENTS:

5 (I) THE CERTIFYING BOARD IS:

6 1. A MEMBER OF THE AMERICAN BOARD OF  
7 MEDICAL SPECIALTIES; OR

8 2. AN AMERICAN OSTEOPATHIC ASSOCIATION  
9 CERTIFYING BOARD;

10 (II) THE CERTIFYING BOARD HAS BEEN APPROVED BY THE  
11 BOARD; OR

12 (III) THE CERTIFYING BOARD REQUIRES THAT, IN ORDER TO  
13 BE CERTIFIED, THE PHYSICIAN, ~~IN ORDER TO BE CERTIFIED, COMPLETE:~~

14 1. COMPLETE A POSTGRADUATE TRAINING  
15 PROGRAM THAT:

16 ~~1.~~ A. PROVIDES COMPLETE TRAINING IN THE  
17 SPECIALTY OR SUBSPECIALTY; AND

18 ~~2.~~ B. IS ACCREDITED BY THE ACCREDITATION  
19 COUNCIL FOR GRADUATE MEDICAL EDUCATION OR THE AMERICAN  
20 OSTEOPATHIC ASSOCIATION; AND

21 2. BE CERTIFIED BY THE MEMBER BOARD OF THE  
22 AMERICAN BOARD OF MEDICAL SPECIALTIES OR THE AMERICAN  
23 OSTEOPATHIC ASSOCIATION IN THE TRAINING FIELD.

24 (B) THE BOARD MAY APPROVE A CERTIFYING BOARD UNDER  
25 SUBSECTION (A)(2)(II) OF THIS SECTION ONLY IF THE CERTIFYING BOARD  
26 REQUIRES THAT, IN ORDER TO BE CERTIFIED, THE PHYSICIAN:

27 (1) COMPLETE A POSTGRADUATE TRAINING PROGRAM THAT:

28 (I) PROVIDES COMPLETE TRAINING IN THE SPECIALTY OR  
29 SUBSPECIALTY BEING CERTIFIED; AND

1                                    (II) IS ACCREDITED BY THE ACCREDITATION COUNCIL FOR  
 2 GRADUATE MEDICAL EDUCATION OR THE AMERICAN OSTEOPATHIC  
 3 ASSOCIATION; AND

4                                    (2) BE CERTIFIED BY THE AMERICAN BOARD OF MEDICAL  
 5 SPECIALTIES OR AMERICAN OSTEOPATHIC ASSOCIATION IN THE SAME  
 6 TRAINING FIELD.

7                    ~~(B)~~ (C) A physician may advertise only as permitted by the rules and  
 8 regulations of the Board ~~AND IN ACCORDANCE WITH~~ SUBJECT TO SUBSECTION (A)  
 9 OF THIS SECTION.

10                    SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December  
 11 31, 2012, each health occupation board established under the Health Occupations  
 12 Article shall submit any existing regulations or policies governing advertising by the  
 13 health care practitioners regulated by the board to the Senate Education, Health, and  
 14 Environmental Affairs Committee and the House Health and Government Operations  
 15 Committee.

16                    SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take  
 17 effect October 1, 2012.

Approved:

---

Governor.

---

President of the Senate.

---

Speaker of the House of Delegates.